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BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303			SALIARD, SHANNON S	
			ART UNIT	PAPER NUMBER
			3639	

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/074,229	BITTMANN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Shannon S. Saliard	3639	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 February 2002.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-38 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-38 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/11/02, 4/25/03</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 1-3, 16, 17, 19, 20, 22, 25, 26, 36, and 38** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per **claims 1, 25, and 36**, “a method for trading...between a merchant and customer” is claimed. However, the limitations claimed anticipate a system. Therefore, it is unclear to the Office, whether the Applicant is attempting to claim a method or a system. Appropriate correction is required.

As per **claim 2**, the limitation “formatted according to an acceptable standard” as recited is vague and indefinite. This limitation does not set any limitations or boundaries; therefore these claims are rendered indefinite.

As per **claim 3**, the limitation “receiving a purchase request...and the registration includes charging the customer account” as recited is vague and indefinite. It is unclear to the Office whether the “receiving” includes “the registration” or if the “registration” is independent of “receiving”. Also, it is unclear to the Office if only the “receiving a purchase request” is “prior to said incorporating” or both the “receiving a purchase request” and the “registration” are “prior to said incorporating”. Appropriate correction is required. For the purpose of examination, the Office will interpret the claim to read, “further comprising receiving a purchase request from the customer for the at least one

service or product prior to said incorporating step, and the registration step includes charging the customer account."

As per **claim 16**, the limitation "if said charge is not allowed" as recited is vague and indefinite. The limitation as stated is conditional. It is unclear to the Office what happens if said charge is allowed. Appropriate correction is required.

As per **claim 17**, the limitation "if said customer account can support said charge or credit" as recited is vague and indefinite. The limitation as stated is conditional. It is unclear to the Office what happens if said customer account cannot support said charge or credit. Appropriate correction is required.

As per **claim 19**, the limitation "if said customer account can support said charge or credit" as recited is vague and indefinite. The limitation as stated is conditional. It is unclear to the Office what happens if said customer account cannot support said charge or credit. Appropriate correction is required.

As per **claims 20 and 22**, the limitation "if the customer approval for said charge or credit is previously requested and received" as recited is vague and indefinite. The limitation as stated is conditional. It is unclear to the Office what happens if the customer approval for said charge or credit is not previously requested and received. Appropriate correction is required.

As per **claim 26**, the claim is written in "single means claim" format since it recites only one element to do all the functions recited. The claim is not written in "means-plus-function" language, however, in Fiers v. Revel, (CAFC) 25 USPQ2d 1601, 1606 (1/19/1993, the CAFC affirmed a rejection under 35 USC 112 of a claim reciting a

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single element that did not literally use "means-plus-function" language). Claim 26 is drawn to any "utility", regardless of construct, that performs the function recited. This parallels the fact situation in Fiers wherein "a DNA" recited. This CAFC stated in Fiers at 1606 "Claiming all DNA's that achieve a result without defining what means will do so is not in compliance with the description requirement; it is an attempt to preempt the future before it has arrived". See also Ex parte Maizel, (BdPatApp&Int) 27 USPQ2d 1662, 1665 and Ex parte Kung, (BdPatApplnt) 17 USPQ2d 1545, 1547 (1/30/1989) where the claims at issue were rejected for being analogous to single means claims even though "means" was not literally used. Thus, claim 26 yields a "utility" that achieves a result without defining what will do so.

As per **claim 36**, the preamble of the claim states "a method for selling content from a merchant of the content to a customer". This statement is vague and indefinite. It is unclear to the Office what the Applicant is attempting to set forth.

As per **claim 38**, the limitation "if the charge was previously submitted for customer approval" as recited is vague and indefinite. The limitation as stated is conditional. It is unclear to the Office what happens if the charge was not previously submitted for customer approval. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-3, 5-17, 19-26, 28-31, and 33-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nikander [U.S. Patent No. 6,029,151] in view of Messner [US 2001/0051902].**

As per **claim 1**, Nikander discloses a method for trading at least one service or product between a merchant and a customer, comprising: a network operator that provides access for the customer to a communication network; transmitting data via said communication network; and the network operator or a charging utility associated therewith, intercepting said content of the transmission and if the trade is completed, registering the price information in the customer account [col 4, lines 26-37]. Nikander does not explicitly disclose the merchant, incorporating a price tag in data that relates to the tradable service or product and that is to be transmitted from the merchant to the customer, said price tag including price information for the at least one service or product and being incorporated in anticipation of the price information being registered if the trade is completed in a customer account. However, Nikander discloses that the intercepting means inspects every incoming data packet and determines whether electronic money traffic is included in the traffic for determination of the sum of money to charge to the user's account [col 7, lines 33-43; col 4, lines 26-37]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Nikander to include incorporating a price tag into the content of the transmission, since the electronic money traffic transmitted by Nikander is transmitted in order to determine how much to charge to the customer account, indicating that the

price of the item is specified in the transmission. Also, Messner discloses a method for trading at least one service or product between a merchant and a customer, comprising a data packet that is transmitted from a merchant to an intercepting means, the data packet containing a price tag [0062; 0066;0068]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Nikander to include the method disclosed by Messner so that the customer does not have to provide confidential information over a network to the merchant to determine the customer's ability to support the purchase of a tradable service or good.

As per **claim 2**, Nikander does not disclose wherein said price tag is formatted according to an acceptable standard. However, Messner discloses that the price tag is formatted to a predetermined standard [0066; 0068] (Note: Examiner interprets "at the very least", to indicate an acceptable standard). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Nikander to include the method disclosed by Messner so that the intercepting means can easily read the information.

As per **claim 3**, Nikander further discloses further comprising prior to said incorporating: receiving a purchase request from the customer for the at least one service or product and the registration includes charging the customer account [col 4, lines 29-37].

As per **claim 5**, Nikander does not disclose wherein said price tag also includes an identifier of the merchant. However, Messner discloses that the price tag contains a merchant identifier [0068]. Therefore, it would have been obvious to one of ordinary

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skill in the art at the time of the invention to modify the invention of Nikander to include the method disclosed by Messner. Messner provides the motivation that including a merchant identifier allows the charging utility to confirm that the merchant is participating in the payment system [0068], suggesting that the merchant identifier allows the appropriate merchant to receive payment for the service or good.

As per **claim 6**, Nikander does not disclose wherein said price tag also includes a description of the at least one service or product. However, Messner discloses that the price tag includes an item description [0066; 0068]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Nikander to include the method disclosed by Messner so that the charging utility and/ or customer can verify the correct item was charged to the user account.

As per **claim 7**, Messner does not explicitly disclose wherein said price information includes an amount and a currency for the at least one service or product. However, the Examiner takes Official Notice that it is old and well known to include amount and currency in price information. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Nikander to include amount and currency in the price information because the network operator needs to know how much to charge the customer.

As per **claim 8**, Nikander does not disclose wherein said price tag also includes an identifier of a manufacturer of the at least one product. However, Messner discloses that purchase information including any information that the merchant needs to identify the exact goods and services the customer wishes to purchase is transmitted to an

intercepting means [0066]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Nikander to include manufacturer information. Messner provides the motivation that including detailed information allows the merchant to identify the exact goods and services the customer purchases [0066].

As per **claim 9**, Nikander does not disclose wherein said price tag also includes a category description. However, Messner discloses that purchase information including any information that the merchant needs to identify the exact goods and services the customer wishes to purchase is transmitted to an intercepting means [0066]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Nikander to include a category description. Messner provides the motivation that including detailed information allows the merchant to identify the exact goods and services the customer purchases [0066].

As per **claim 10**, Nikander does not explicitly disclose wherein at least part of said data is an HTTP header and said price tag is incorporated in said header. However, Nikander discloses that electronic money information is contained within special fields of an HTTP protocol [col 7, lines 51-53]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Nikander to include incorporating price information into the HTTP header because an HTTP header is part of an HTTP Protocol.

As per **claim 11**, Nikander does not explicitly disclose wherein at least part of said data constitutes at least part of the at least one product. However, Nikander

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discloses that that the intercepting means determines from the transmitted information, if the contents need to be transmitted to the user [col 9, lines 6-7; col 9, lines 42-48]. Thus indicating that the document was requested from the merchant. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Nikander to include data as the product that is requested from the merchant

As per **claim 12**, Nikander further discloses wherein said data is a message regarding the at least one service or product [col 9, lines 17-30].

As per **claim 13**, Nikander discloses a method for evaluating whether to allow a charge or a credit for at least one service or product in a trade between a merchant and a customer, comprising: receiving data that relates to the traded service or product transmitted via a communication network [col 4, lines 29-37]; reading said information [col 7, lines 33-43]; evaluating whether said customer account can support a charge or a credit for a sum of money represented by said information; and if said customer account cannot support said charge for said sum represented by said information, not allowing said charge for said sum [col 13; lines 6-10; col 5, lines 34-47; col 9, lines 30-33]. Nikander does not explicitly disclose receiving a price tag via a communication network and said price tag including price information for the at least one service or product, and said price tag having been incorporated in said data in anticipation of said price information being charged or credited to a customer account with a network operator providing access for the customer to said communication network. However, Nikander discloses that every incoming data packet is inspected and a determination is

made whether electronic money traffic is included in the traffic [col 7, lines 33-43; col 4, lines 26-37]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Nikander to include incorporating a price tag into the content of the transmission, since the electronic money traffic transmitted by Nikander is transmitted in order to determine how much to charge to the customer account, indicating that the price of the item is specified in the transmission. Also, Messner discloses a method for trading at least one service or product between a merchant and a customer, comprising a data packet that is transmitted from a merchant to an intercepting means, the data packet containing a price tag [0062; 0066;0068]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Nikander to include the method disclosed by Messner so that the customer does not have to provide confidential information over a network to the merchant to determine the customer's ability to support the purchase of a tradable service or good.

As per **claim 14**, Nikander further discloses wherein said evaluating includes: checking locally stored information on said customer account, wherein said information is at least one from a group including: account balance, balance due, credit rating, credit line, and account rules [col 5, lines 29-47].

As per **claim 15**, Nikander does not disclose wherein said evaluating includes: transferring a query over said communication network to a separate server inquiring about information on said customer account, wherein said information is at least one from a group including account balance, account balance due, credit rating, credit line,

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and account rules. However, Messner discloses a method for evaluating whether a customer's account can accept a charge for a sum of money for a tradable product or service by transferring a query to a separate server [0079; 0013]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Nikander to include the method disclosed by Messner to determine the customer's ability to pay for the requested service, and so that the merchant is guaranteed payment.

As per **claim 16**, Nikander does not disclose further comprising: if said charge is not allowed, indicating so to one or both of the merchant and the customer. However, Messner discloses that a denial message is sent to one or both of the merchant and the customer [see Figs. 9A and 10A]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Nikander to include the method disclosed by Messner to inform the merchant that the customer is not able to support the purchase, and the merchant is not guaranteed payment

As per **claim 17**, Nikander further discloses further comprising: if said customer account can support said charge or credit for said sum of money represented by said price tag, allowing and registering said charge or credit for said sum under said customer account [col 5, lines 34-47; col 4, lines 32-37; col 9, lines 30-33].

As per **claim 19**, Nikander further discloses wherein said registering is only performed if the customer approval for said charge or credit is previously requested and received [col 9, lines 22-30].

As per **claim 20**, Nikander further discloses further comprising: if said registering is performed, indicating to one or both of the merchant and the customer that a registering of said charge or credit is confirmed [col 4, lines 37-39].

As per **claim 21**, Nikander further discloses further comprising: settling said registered charge or credit with the merchant [col 4, lines 37-39].

As per **claim 22**, Nikander further discloses further comprising: if said registering is performed, allowing at least part of said data to pass through to the customer [col 9, lines 42-48].

As per **claim 23**, Nikander further discloses wherein at least part of said passed through data is content data [col 9, lines 42-48].

As per **claim 24**, Nikander further discloses wherein at least part of said passed through data is a message for the customer [col 9, lines 26-30].

As per **claim 25**, Nikander discloses a method for trading at least one service/product between a merchant and a customer, comprising: a network operator that provides access for the customer to a communication network; transmitting said data via said communication network; a charging agent associated with said network operator intercepting said information [col 4, lines 26-37], and recording a charge or a credit according to said price information in said customer account; a billing system associated with said network operator receiving the recorded charge or credit and settling said recorded charge or credit with the merchant [col 4, lines 37-39; col 6, lines 57-62]. Nikander does not explicitly disclose the merchant, incorporating a price tag in data that relates to the tradable service or product and that is to be transmitted from the

merchant to the customer and said price tag including price information for the at least one service or product and being incorporated in anticipation of the price information being registered if the trade is completed in a customer account. However, Nikander discloses that the intercepting means inspects every incoming data packet and determines whether electronic money traffic is included in the traffic for determination of the sum of money to charge to the user's account [col 7, lines 33-43; col 4, lines 26-37]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Nikander to include incorporating a price tag into the content of the transmission, since the electronic money traffic transmitted by Nikander is transmitted in order to determine how much to charge to the customer account, indicating that the price of the item is specified in the transmission. Also, Messner discloses a method for trading at least one service or product between a merchant and a customer, comprising a data packet that is transmitted from a merchant to an intercepting means, the data packet containing a price tag [0062; 0066;0068]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Nikander to include the method disclosed by Messner so that the customer does not have to provide confidential information over a network to the merchant to determine the customer's ability to support the purchase of a tradable service or good.

As per **claim 28**, Nikander discloses a system for deciding whether to allow a charge for a service or product in a trade between a merchant and a customer, comprising: a reader for intercepting and reading information that is incorporated in data

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relating to the traded service or product, said data being transmitted via a communication network in anticipation of charging or crediting a customer account with a network operator providing access for the customer to the communication network based on said price information [col 4, lines 26-37; col 7, lines 3-43]; and an evaluator for evaluating if said customer account can support a charge or a credit for a sum of money represented by said information [col 13; lines 6-10; col 5, lines 34-47; col 9, lines 30-33]. Nikander does not explicitly disclose a price tag including price information for the traded service or product and having been incorporated in said data. However, Nikander discloses that the intercepting means inspects every incoming data packet and determines whether electronic money traffic is included in the traffic for determination of the sum of money to charge to the user's account [col 7, lines 33-43; col 4, lines 26-37]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Nikander to include incorporating a price tag into the content of the transmission, since the electronic money traffic transmitted by Nikander is transmitted in order to determine how much to charge to the customer account, indicating that the price of the item is specified in the transmission. Also, Messner discloses a method for trading at least one service or product between a merchant and a customer, comprising a data packet that is transmitted from a merchant to an intercepting means, the data packet containing a price tag [0062; 0066;0068]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Nikander to include the method disclosed by Messner so that the customer does not have to provide

confidential information over a network to the merchant to determine the customer's ability to support the purchase of a tradable service or good.

As per **claim 29**, Nikander further discloses further comprising: a charger for recording said charge or credit to said account [col 4, lines 32-37; col 6, lines 57-62].

As per **claim 30**, Nikander further discloses further comprising a business support system including a billing system for settling said recorded charge or credit with the merchant [col 4, lines 37-39].

As per **claim 31**, Nikander discloses wherein said business support system also includes a database for storing information on said account [col 6, lines 44-45; col 6, lines 57-62].

As per **claim 33**, Nikander further discloses wherein at least part of the system is included in or coupled to a communication device of the customer [col 5, lines 17-21].

As per **claim 34**, Nikander further discloses wherein at least part of the system is included in or coupled to a communication infrastructure of said network operator [col 5, lines 29-33].

As per **claim 35**, Nikander does not explicitly disclose further comprising a local memory included in or coupled to a communication device of the customer or a charging agent associated with said network operator, for storing information on said account. However, Nikander discloses that network operator can recognize a user connecting to it via the network based on the user's network address since the network operator knows the network addresses allocated to each of its users [col 5, lines 13-15]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the

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invention to modify the invention of Nikander to include storing customer account information locally so that the network operator knows what user account to charge for a purchase.

As per **claim 36**, Nikander discloses a method for selling content from a merchant of the content to a customer, comprising: the merchant, incorporating data that includes the content [col 9, lines 42-48]; a network operator that provides access for the customer to a communication network; transmitting said data via said communication network; and the network operator or a charging utility associated therewith, intercepting said information and if the sale is completed, registering the price information in the customer account [col 26-37; col 7, lines 33-43]. Nikander does not explicitly disclose a price tag including price information for said content and being incorporated in anticipation of the price information being charged to a customer account. However, Nikander discloses that the intercepting means inspects every incoming data packet and determines whether electronic money traffic is included in the traffic for determination of the sum of money to charge to the user's account [col 7, lines 33-43; col 4, lines 26-37]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Nikander to include incorporating a price tag into the content of the transmission, since the electronic money traffic transmitted by Nikander is transmitted in order to determine how much to charge to the customer account, indicating that the price of the item is specified in the transmission. Also, Messner discloses a method for trading at least one service or product between a merchant and a customer, comprising a data packet that is

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transmitted from a merchant to an intercepting means, the data packet containing a price tag [0062; 0066;0068]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Nikander to include the method disclosed by Messner so that the customer does not have to provide confidential information over a network to the merchant to determine the customer's ability to support the purchase of a tradable service or good.

As per **claim 37**, Nikander further discloses further comprising: determining whether said account can be charged for the price of said content and allowing transfer of said content to the customer based on such determination [col 9, lines 30-33; col 9, lines 42-48].

As per **claim 38**, Nikander further discloses wherein the content is transferred to the customer only if the charge was previously submitted for customer approval and customer approval was received [col 9, lines 30-33; col 9, lines 42-48].

5. **Claim 4** is rejected under 35 U.S.C. 103(a) as being unpatentable over Nikander [U.S. Patent No. 6,029,151] in view of Messner [US 2001/0051902] as applied to claim 1 above, and further in view of Schwab et al [US 2002/0019777].

As per **claim 4**, Nikander discloses all the limitations of claim 1. Nikander does not disclose further comprising prior to said incorporating; receiving at least one product returned by the customer, and the registration includes crediting the customer account. However, Schwab et al discloses a system for making a trade between a merchant and

a customer including returning a product from a customer for a credit [0014; see Fig. 2]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Nikander to include receiving a product return from a customer to track each transaction associated with a particular item in a customer's account.

6. **Claims 18 and 32** are rejected under 35 U.S.C. 103(a) as being unpatentable over Nikander [U.S. Patent No. 6,029,151] in view of Messner [US 2001/0051902] as applied to claims 1, 13, 17, and 28 above, and further in view of Lam et al [US 2002/0120527].

As per **claim 18**, Nikander and Messner disclose all the limitations of claims 13 and 17. Nikander does not disclose wherein said registering includes: converting said sum into local currency. However, Lam et al discloses a method for providing the trade of a service or good between a merchant and a customer that includes converting the sum into local currency [0056]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Nikander to include the system disclosed by Lam et al so that the correct amount of money is charged to the customer account.

As per **claim 32**, Nikander and Messner disclose all the limitations of claim 28. Nikander does not disclose further comprising: a currency converter for converting said price information into local currency. However, Lam et al discloses a system for providing the trade of a service or good between a merchant and a customer that

includes a currency converter [0056]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Nikander to include the system disclosed by Lam et al so that the correct amount of money is charged to the customer account.

7. **Claim 26** is rejected under 35 U.S.C. 103(a) as being unpatentable over Messner [US 2001/0051902] in view of Nikander [U.S. Patent No. 6,029,151].

As per **claim 26**, Messner discloses a system for pricing a service or product tradable between a merchant and a customer, comprising: an incorporator utility for incorporating a price tag in data that relates to the tradable service or product to be transmitted from the merchant to the customer through a communication network, said price tag including price information for the at least one service or product and being incorporated in anticipation of charging or crediting a customer account [0066; 0068; 0084]. Messner does not disclose a network operator that provides access for the customer to said communication network, the charging or crediting, being based on said price information and occurring if the trade is completed. However, Nikander discloses a network operator that charges a customer's account for goods or services based on price information if the trade is completed [col 4, lines 26-37]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Messner to include the system disclosed by Nikander. Nikander provides the motivation that utilizing the network operator to intercept and register price information in a customer account is more secure because communication of

confidential information only takes place between the user and the communication network [col 5, lines 29-34].

8. **Claim 27** is rejected under 35 U.S.C. 103(a) as being unpatentable over Messner [US 2001/0051902] in view of Nikander [U.S. Patent No. 6,029,151] as applied to claim 26 above, and further in view of Williams [US 2003/0111531].

As per **claim 27**, Nikander and Messner disclose all the limitations of claim 26. Nikander does not disclose further comprising a pricing database including pricing information for use in said price tag. However, Williams discloses a system for pricing a service or product tradable between a merchant and a customer, comprising a price database [0057]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Nikander to include a pricing database. Williams provides the motivation that accessing a pricing database allows the customer to receive the best price for the product that the customer wishes to purchase [0018].

### ***Conclusion***

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are

applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shannon S. Saliard whose telephone number is 571-272-5587. The examiner can normally be reached on Monday - Friday, 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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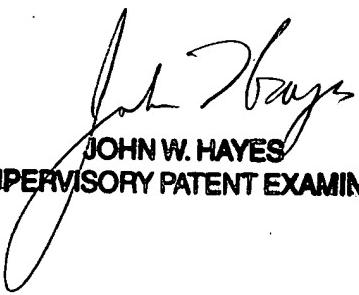
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Shannon S Saliard  
Examiner  
Art Unit 3639

sss

  
JOHN W. HAYES  
SUPERVISORY PATENT EXAMINER